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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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09/890,581

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07/13/2004

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EXAMINER

NGUYEN, VI X

ART UNIT

PAPER NUMBER

3731

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/890,581

Applicant(s)

DAMPNEY ET AL.

Examiner

Victor X Nguyen

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-15 and 17-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-15 and 23-25 is/are allowed.
- 6) ☒ Claim(s) 1-9, 17-22, 26 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. This application does not contain **an abstract** and **a summary** of the disclosure as required by 37 CFR 1.72(b). Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 17-22 and 26-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Hurley et al (5,355,871).

With respect to claim 1, Hurley et al disclose in Figs. 1-4, an actuating mechanism for actuating a surgical tool, including: an actuating device (104) has an actuator surface (105) for placing the actuating device in an actuated position from a rest position to actuate a surgical tool (10), and where the actuator surface comprises a collapsible cage (see fig. 2) having a plurality of actuating pads (items 107 can be characterized as actuating pads).

As to claims 2-3, Hurley et al disclose in Figs. 2-3 and 5, each pad has an extending groove (209a) and the actuating device further comprises a plurality of extending guides (208) that is capable of engaging an inwardly extending groove of each pad, and where the cage (see fig. 3) is adapted such an inward movement of the cage causes the actuating device is in its actuated position.

Art Unit: 3731

As to claims 4-5, Hurley et al disclose in Figs. 2-3, the actuating mechanism further comprises a locking mechanism (105) that is adapted to lock the actuating device.

As to claims 6-7, Hurley et al disclose in Fig. 2, the locking mechanism further comprises a release means (109), and where the actuating mechanism further comprises override means (112) for returning the actuating device from its actuated position to its rest position.

As to claims 8-9, Hurley et al disclose in Fig. 2, the actuating mechanism further comprises biasing means comprises a compression spring (113).

As to claims 17-19, Hurley et al disclose in Figs. 1-2, the surgical instrument comprises a handle (102), an elongate shaft (103) and a surgical tool (10) mounted on the shaft, and where the diameter of the cylindrical surface is approximately equal to the diameter of the handle.

As to claims 20-27, Hurley et al disclose in Fig. 3, the elongate shaft (103) comprises an actuator rod (12) slideably mounted within an outer tube (11), where the actuating device further comprises means (107) for translating the radial movement of the actuator surface into the longitudinal movement, and where the instrument further comprises a locking mechanism (105), where the handle is elongate to be held in a pen like grip (see fig. 3).

Allowable Subject Matter

3. Claims 11-15 and 23-25 are allowed.

4. The following is a statement of reasons for allowance: None of the prior art of record, alone or in combination, discloses all of the limitations of claim 11 including, where a locking mechanism for locking a surgical tool includes an interengaging means comprising latching means and actuator means, where the latching means comprises a first stepped surface and the actuator means comprises a second stepped surface to lock the actuator means in any one of a

Art Unit: 3731

plurality of actuated positions, and where the axial depth of each step of the second stepped surface of the actuator means is greater than the axial depth of each step of the first stepped surface of the latching means.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 3,982,544 to Dyck

U.S. Pat. No. 5,158,086 to Brown

U.S. Pat. No. 4,996,974 to Ciarlei

U.S. Pat. No. 5,195,507 to Bilweis

U.S. Pat. No. 6,030,406 to Davis

U.S. Pat. No. 5,474,571 to Lang

U.S. Pat. No. 4,258,716 to Sutherland

U.S. Pat. No. 5,346,504 to Ortiz

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor X Nguyen whose telephone number is (703) 305-4898. The examiner can normally be reached on M-F (8-4.30 P.M).

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Victor X Nguyen
Examiner
Art Unit 3731

Vn ☒
July 1, 2004



**JULIAN W. WOO
PRIMARY EXAMINER**